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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,925

Applicant(s)

KAMIYA ET AL.

Examiner

ANTHONY MEJIA

Art Unit

2451

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 October 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 13-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 30 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 07/15/2008
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. It is hereby acknowledged that Claims 1-12 have been cancelled and Claims 13-33 have been added and are now currently being presented.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Japanese Application No. 2002-286712, filed on 30 September 2002.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 16 and 30 recite the limitations: "second server identification information" and "second server". There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 15-17, 22-24, and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In particular, claim 15 recites: "wherein the relay device comprises a second storage unit configured to store first activation type information indicating a first activation type information indicating a first activation mode of the application program..." and Claim 27 recites: "storing first activation type information indicating a first activation mode in a third storage unit included in the relay device,...". The specification as filed and published does not show these limitations as claimed. As a result, dependent claims 15-17, 22-24, and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicants are required to either provide a clear support from the specification for these limitations or amend the claims, cancelling the limitations not supported by the specification.

Claim 15-17, 22-24, and 27-31 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed relay device is being equated to the gateway server 400 disclosed in the applicant's specification. The specification does not explicitly show wherein the gateway server 400 comprises: a second storage unit configured to store first activation type information indicating a first activation type information indicating a first activation mode of the application program..." and a third storage unit for storing first activation type information indicating a first activation mode. As a result, dependent claims 15-17, 22-24, and 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Applicants are required to either provide a clear support from the specification for these limitations or amend the claims, cancelling the limitations not supported by the specification.

For the purposes of examination, the Examiner will interpret the second storage unit and the third storage unit of the relay device as being synonymous to the claimed first storage unit of the relay device, which is currently being equated to the communication information unit 420 which comprises a management table TA which stores various types of information relating to communication regulation (*see* par [0033] of page 6 in specification)

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 13-15, 17, 19-22, 24, 26-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Navarre et al (US 6,442,611) (referred herein after as Navarre).

Regarding Claim 13, Navarre teaches a communication system (*see* fig.2) comprising:

a communication terminal (client running application 210) (col.2, lines 27-31);
and

a relay device (gateway 220) that relays data communication (request) between the communication terminal and a server (targeted server with application), (col.2, lines 27-31, 50-59, col.3, lines 1-11, and col.3, lines 45-64);

the communication terminal comprising:

a communication unit (it is an inherent property that in order for the client running application 210, to communicate with a relay device it must comprise a hardware component to communicate the request for the user, col. 2, lines 27-31, 50-54, col.3, lines 6-11);

a storage unit (it is an inherent property that in order for the client to run application 210, it must be stored on the client) configured to store an application program (application 210) executable to communicate with the server via a network (network 200) and communication unit (col. 2, lines 27-31, 50-54, col.3, lines 6-11); and

a processing unit (it is an inherent property that in order for the client to run application 210, it must comprise a hardware component such as a CPU) configured to execute the application program to communicate with the server in accordance with the application program, to generate a communication request including application related information related to the application program, and to send the communication request to the server (col.2, lines 50-65 and col.3, lines 1-15);

the relay device comprising:

a first storage unit (tables 223) configured to store regulation information to regulate a communication requested by the communication request (col.3, lines 15-29);

a receiving unit (it an inherent property that in order for gateway 220 to receive a request from a client, the gateway must comprise a hardware component in order to process a request from a client) configured to receive the communication request from the communication terminal (col.3, lines 1-15).

a relay processing unit (central processing unit (CPU)) configured to relay the communication in response to the communication request satisfying a predetermined condition wherein the relay processing unit is configured to relay the communication in accordance with the regulation information stored in a first storage unit (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 14, Navarre teaches the communication system of Claim 13 as discussed above. Navarre further teaches wherein the application related information includes communication identification information, the communication identification information indicating, in a case that the application program executed by the processing unit is a specific type application program, that the communication is performed by the specific type application program, and the predetermined condition is that the application related information includes the communication identification information (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 15, Navarre teaches the communication system of Claim 13 as discussed above. Navarre further teaches wherein the relay device further comprises a second storage unit configured to store first activation type information indicating a first

activation mode of the application program (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23),,

wherein the application related information includes second activation type information indicating a second activation mode of the application program (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23), and

the predetermined condition is that the second activation mode indicated by the second activation type information included in the application related information is consistent with the first activation type information stored in the second storage unit (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 17, Navarre teaches the communication system of Claim 13 as discussed above. Navarre further teaches wherein the relay device further comprises a second storage unit configured to store first application identification information indicating a specific application program(col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23),

wherein the application related information includes second application identification information identifying the application program(col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23), and

the predetermined condition is that the second application identification information included in the application related information is consistent with the first application identification information stored in the second storage unit(col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 19, Navarre teaches the communication system of Claim 13 as discussed above. Navarre further teaches wherein the regulation information includes at least one or both of:

- a condition to regulate the communication, and

- a condition to permit the communication (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 20, Navarre teaches a relay device (gateway 220) for relaying data communication between a communication terminal (client running application 210) and a server (targeted server with application) (col.2, lines 27-31, 50-59, col.3, lines 1-11, and col.3, lines 45-64);

- the relay device comprising:

- a first storage unit (tables 223) configured to store regulation information to regulate a communication in response to a communication request (col.3, lines 15-29);

- a receiving unit (it is an inherent property that in order for gateway 220 to receive a request from a client, the gateway must comprise a hardware component in order to process a request from a client) configured to receive the communication request from the communication terminal (col.3, lines 1-15); and

- a relay processing unit (central processing unit (CPU))) configured to relay the communication in response to the communication request satisfying a predetermined condition, the relay processing unit configured to relay the communication in

accordance with the regulation information stored in a first storage unit (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 21, this device claim comprises limitation(s) substantially the same, as those discussed on claim 14 above, same rationale of rejection is applicable.

Regarding Claim 22, this device claim comprises limitation(s) substantially the same, as those discussed on claim 15 above, same rationale of rejection is applicable.

Regarding Claim 24, this device claim comprises limitation(s) substantially the same, as those discussed on claim 17 above, same rationale of rejection is applicable.

Regarding Claim 26, this device claim comprises limitation(s) substantially the same, as those discussed on claim 19 above, same rationale of rejection is applicable.

Regarding Claim 27, Navarre teaches a method in a communication system that includes a communication terminal (client running application 210) and a relay device (gateway 220) that relays data communication between the communication terminal and a server (targeted server with application) (col.2, lines 27-31, 50-59, col.3, lines 1-11, and col.3, lines 45-64), the communication terminal including a communication unit and a first storage unit (it is an inherent property that in order for the client to run application 210, it must be stored on the client) configured to store an application program (client

application 210) executable to communicate with the server via a network (network 200), the relay device including a second storage unit (tables 223) configured to store regulation information for regulating a communication in response to a communication request (col.3, lines 15-29), the method comprising:

generating, with the communication terminal, the communication request to include application related information related to the application program (col.2, lines 27-31, 50-59, col.3, lines 1-11, and col.3, lines 45-64);

sending, with the communication terminal, the communication request to the server (col.2, lines 50-65);

receiving, with the relay device, the communication request from the communication terminal (col.3, lines 1-15).

relaying with the relay device, the communication if the communication request satisfies a predetermined condition, the communication relayed by the relay device in accordance with the regulation information stored in the second storage unit (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 28, this method claim comprises limitation(s) substantially the same, as those discussed on claim 14 above, same rationale of rejection is applicable.

Regarding Claim 29, Navarre teaches the method of claim 27 as discussed above. Navarre further teaches wherein the method comprises storing first activation

type information indicating a first activation mode in a third storage unit included in the relay device (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23),

wherein the application related information includes a second activation type information indicating a second activation mode of the application program(col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23), and

the predetermined condition is that the second activation mode indicated by the second activation type information included in the application related information is consistent with the first activation type information stored in the third storage unit (col.2, lines 33-49, col.3, lines 1-29, and col.6, lines 1-23).

Regarding Claim 31, this method claim comprises limitation(s) substantially the same, as those discussed on claim 17 above, same rationale of rejection is applicable.

Regarding Claim 32, this method claim comprises limitation(s) substantially the same, as those discussed on claim 19 above, same rationale of rejection is applicable.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 18, 25, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Navarre and in further view of Glommen et al. (US 6,393,479) (referred herein after as Glommen).

Regarding Claim 18, Navarre teaches the communication system of Claim 13 as discussed above. Navarre does not explicitly teach wherein the regulation information includes at least a condition to regulate a duration of the communication.

However, Glommen in a similar field of endeavor discloses an Internet website traffic flow analysis including the regulation information includes at least a condition to regulate a duration of the communication (col.8, lines 49-65, and col.9, lines 39-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Glommen in the teachings of Navarre to regulate the duration of the communication. One of ordinary skill in the art at the time the time the invention was made to combine the teachings of Navarre and Glommen to reduce throughput of the mobile communication and optimize the regulation of requests being sent on the system.

Regarding Claim 25, this device claim comprises limitation(s) substantially the same, as those discussed on claim 18 above, same rationale of rejection is applicable.

Regarding Claim 32, this method claim comprises limitation(s) substantially the same, as those discussed on claim 18 above, same rationale of rejection is applicable.

10. Claims 16, 23, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Navarre and in further view of Yoshida et al. (US 2002/0032781) (referred herein after as Yoshida).

Regarding Claim 16, Navarre teaches the communication system of Claim 13 as discussed above. The teachings of Navarre does not explicitly teach wherein the relay device further comprises a second storage unit configured to store first server identification information indicative of a first server, wherein the application related information includes second server identification information indicative of a second server from which the application program was received by the communication terminal, and

the predetermined condition is that the second server identification information included in the application related information is consistent with the first server identification information stored in the second storage unit.

However, Yoshida in a similar field of endeavor discloses an intermediary server apparatus and an information providing method including:

wherein a relay device (intermediary server 2) further comprises a second storage unit configured to store first server identification information (server-side user ID) indicative of a first server, wherein the application related information includes second server identification information indicative of a second server from which the

application program was received by the communication terminal (origin server) (pars [0031-0041], and *see* figs.4-6), and

the predetermined condition is that the second server identification information included in the application related information is consistent with the first server identification information stored in the second storage unit (pars [0031-0041], and *see* figs.4-6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Yoshida in the teachings of Navarre to regulate server identification information. One of ordinary skill in the art at the time the time the invention was made to combine the teachings of Navarre and Yoshida to optimize the regulation for requests being sent on the system.

Regarding Claim 23, this device claim comprises limitation(s) substantially the same, as those discussed on claim 16 above, same rationale of rejection is applicable.

Regarding Claim 30, the teachings of Navarre teach the method of Claim 27 as discussed above. The teachings of Navarre does not explicitly teach wherein the method further comprises storing first server identification information indicating a first server in a third storage unit included in the relay device, wherein the application related information includes second server identification information identifying a second server from which the application program is sent, and

the predetermined condition is that the second server identification information included in the application related information is consistent with the first server identification information stored in the second storage unit.

However, Yoshida in a similar field of endeavor discloses an intermediary server apparatus and an information providing method including:

wherein the method further comprises storing first server identification information indicating a first server in a third storage unit included in the relay device, wherein the application related information includes second server identification information identifying a second server from which the application program is sent (pars [0031-0041], and *see* figs.4-6), and

the predetermined condition is that the second server identification information included in the application related information is consistent with the first server identification information stored in the second storage unit (pars [0031-0041], and *see* figs.4-6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Yoshida in the teachings of Navarre to regulate server identification information. One of ordinary skill in the art at the time the time the invention was made to combine the teachings of Navarre and Yoshida to optimize the regulation for requests being sent on the system.

Response to Arguments

11. Applicant's arguments filed 30 October 2008 have been fully considered but are deemed moot in view of the following new grounds of rejection as necessitated by Applicant's substantial amendments to the newly submitted claims which significantly affected the scope thereof.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form (see 1.113). If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, *new arguments, or new evidence in support of patentability*. If reply to an Office action under 35 USC 132 is outstanding, the submission must meet the reply requirements of § 1.111 (see MPEP 706.07)

Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Mejia
Patent Examiner

/Salad Abdullahi/

Primary Examiner, Art Unit 2457